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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/028,518	12/21/2001	Ralph A. Chappa	9896.149.0	4505

22859 7590 10/12/2005

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EXAMINER

VO, HAI

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 10/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/028,518

Applicant(s)

CHAPPA ET AL.

Examiner

Hai Vo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 August 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-43 and 45-55 is/are pending in the application.
- 4a) Of the above claim(s) 1-21, 23-28, 31-35, 37-41, 45 and 48-53 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 22, 29, 30, 36, 42, 43, 46, 47, 54 and 55 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. The claim objections are withdrawn in view of the present amendment.
2. The 102/103 art rejections over Swan et al (US 5,414,075) are maintained.
3. The art rejections over Swan et al (US 6,077,698) in view of Swan et al (US 5,414,075) are maintained with respect to claims 22, 29, 30, 36, 42, 43, 46, 47, 54 and 55. The rejections of claim 44 are considered moot in view of the claim cancellation.
4. The art rejections over WO 01/21326 in view of Swan et al (US 6,077,698) and Swan et al (US 5,414,075) are withdrawn in view of the declaration filed on 08/19/2005. The declaration of Mr. Dale Swan explains that substitution of grafting agents with positively charged substituents for those with negatively charged substituents does not make obvious because grafting agents with positively charged has the potential of eliciting a thrombogenic response when used in vivo in a blood related system. Therefore, the use of grafting agents with positively charged substituents and those with negatively charged substituents are not considered interchangeable. Accordingly, the declaration is found persuasive to overcome the art rejections.
5. The art rejections over WO 01/21326 in view of Swan et al (US 5,414,075) are maintained.
6. The obviousness-type double patenting rejections over US 6,669,994 are withdrawn for the same reasons set forth in the paragraph no. 4 above.

Claim Rejections - 35 USC § 102

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7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 54 and 55 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Swan et al (US 5,414,075) substantially as set forth in the 03/17/2005 Office Action. The art rejections have been maintained for the following reasons. Applicants argue that the different processes result in coatings that are structurally different. Applicants state that the structural difference between the coating of claims 54 and 55 and the prior art coating is thickness, webbing issues, open and unclogged pores, density of polymer that can be attached to the surface, non-crosslinking coating. The arguments are not found persuasive for patentability because they are not commensurate in scope with the claims because none of these features is presently claimed. Accordingly, the art rejections are maintained.

10. Claims 22, 29, 30, 36, 42, 43, 46, 47, 54 and 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Swan et al (US 6,077,698) in view of Swan et al (US

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5,414,075) substantially as set forth in the 03/17/2005 Office Action. Applicants' reiterated positions taken with respect to the other rejections, the examiner's comments set forth in the paragraph above are equally pertinent in the support of these rejections as well.

11. Claims 54 and 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 01/21326 in view of Swan et al (US 5,414,075) substantially as set forth in the 03/17/2005 Office Action. The art rejections have been maintained for the following reasons. Applicants argue that Swan '994 does not disclose the use of a reagent having four or more photoinitiator groups attached to a nonpolymeric core molecule. The examiner disagrees. Swan '994 discloses the coating comprising two photoreactive species wherein each photoreactive species include two photoreactive species. Likewise, the coating comprising four photoreactive groups (claim 28).

Conclusion

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hai Vo whose telephone number is (571) 272-1485. The examiner can normally be reached on M,T,Th, F, 7:00-4:30 and on alternating Wednesdays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (571) 272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HV

Hai Vo
HAI VO
PRIMARY EXAMINER